

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ANTONIO HUBBARD,

Plaintiff,
v.

Case No. 21-11421
Hon. Denise Page Hood

BRALEY, et al.

Defendants.

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**ORDER ACCEPTING AND ADOPTING THE APRIL 18, 2023
REPORT AND RECOMMENDATION**

This matter is before the Court on a Report and Recommendation [ECF No. 35] filed by Magistrate Judge Curtis Ivy, Jr. To date, no Objections have been filed by Plaintiff Antonio Hubbard and the time to file such has passed.

The standard of review by the district court when analyzing a Report and Recommendation is set forth in 28 U.S.C. § 636. This Court “shall make a de novo determination of those portions of the report or the specified proposed findings or recommendations to which an objection is made.” 28 U.S.C. § 636(B)(1)(c). Further, the Court “may accept, reject or modify, in whole or in part, the findings or recommendations made by the Magistrate.” *Id.* In order to preserve the right to appeal the Magistrate Judge’s recommendation, a party must file objections to the Report and Recommendation within fourteen (14) days of service of the Report and Recommendation. Fed. R. Civ. P. 72(b)(2). Failure to file specific objections

constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Secretary of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

Upon Review of the Report and Recommendation, the Court concludes that Plaintiff has not demonstrated an interest in prosecuting this matter. The Court agrees that Plaintiff failed to respond to Defendants' motion for summary judgment by February 23, 2023, as ordered by the Magistrate Judge, and failed or refused to respond to the Magistrate Judge's order to show cause as to why the Court should not recommend summary judgment be granted. Therefore, dismissal of this matter pursuant to Federal Rule of Civil Procedure 41(b) is appropriate because Plaintiff has failed to both prosecute this matter and comply with the Magistrate Judge's orders. Defendants' motion for summary judgment is terminated as moot.

For the reasons set forth above,

IT IS ORDERED that Magistrate Judge Curtis Ivy Jr.'s Report and Recommendation [ECF No. 35] is ACCEPTED AND ADOPTED as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment [ECF No. 30] is TERMINATED as MOOT. All Defendants and the entire

action are DISMISSED with prejudice.

s/Denise Page Hood
United States District Judge

Dated: September 18, 2023